

Before the
Administrative Hearing Commission
State of Missouri



| | | |
|----------------------|---|----------------|
| RYAN KAISER, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | No. 13-1064 RI |
| |) | |
| DIRECTOR OF REVENUE, |) | |
| |) | |
| Respondent. |) | |

DECISION

Ryan Kaiser (“Kaiser) failed to administratively exhaust his remedies. We therefore lack jurisdiction to act on his complaint.

Procedure

Kaiser filed a document entitled “Notice of Protest and Request for Hearing and/or Reconsideration” with us on June 14, 2003. We filed that document as a complaint. The Director of Revenue (“Director”) filed a motion to dismiss on July 12, 2013. We gave Kaiser until July 25 to respond, but he did not respond.

Findings of Fact

1. On April 17, 2013, the Director mailed a notice of deficiency to Kaiser for the 2009 tax year.
2. In the deficiency notice, the Director assessed a total of \$680.04 in tax, interest, and additions to tax.

3. In the deficiency notice, the Director informed Kaiser that he had sixty days from the date of the notice to file a protest.

4. Kaiser filed a document entitled “Notice of Protest and Request for Hearing and/or Reconsideration” with this Commission on June 14, 2003.

5. Kaiser addressed that notice to the Missouri Department of Revenue, Administrative Hearings Department.

6. We sent a notice of the complaint and a copy of Kaiser’s “Notice of Protest” via hand-delivery to the Director on June 14, 2013.

7. June 14, 2013, was 59 days after April 17, 2013.

8. The Director has not issued a final determination in Kaiser’s case.

Conclusions of Law

We have jurisdiction only over the Director’s final determination on a taxpayer’s protest. Section 143.651.¹ Here, the Director has not made a final determination. Therefore, we lack jurisdiction to consider Kaiser’s complaint.

We note that Kaiser’s complaint is denominated “Notice of Protest and Request for Hearing and/or Reconsideration.” This title tracks the language in § 143.631.1 for protests. The Director received this protest on June 14, 2013, when we sent it to him. The protest thus was received by the Director within the 60-day statutory period. Section 143.621.1. Thus, it appears that the Director should consider the protest as timely filed and reconsider the deficiency under § 143.631.1.

¹ All statutory citations are to 2000 version of the Missouri Revised Statutes.

Conclusion

We dismiss the petition for lack of jurisdiction.

SO ORDERED on August 2, 2013.

\s\ Nimrod T. Chapel, Jr.
NIMROD T. CHAPEL, JR.
Commissioner